

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Kyle J. Smallwood,

Plaintiff,

v.

Case No. 1:24cv076

Highland County Sheriff, *et al.*

Defendants.

ORDER

This matter is before the Court on the Report and Recommendation (“R&R”) filed by the Magistrate Judge on June 11, 2024 (Doc. 4) and the Supplemental R&R filed by the Magistrate Judge on August 8, 2024 (Doc. 8).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties may forfeit rights on appeal if they failed to file objections to the R&R in a timely manner. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). No objections to the Magistrate Judge’s R&R or Supplemental R&R (Docs. 4 & 8) have been filed and the time to do so has expired.

Accordingly, it is **ORDERED** that the R&R and Supplemental R&R (Docs. 4 & 8) of the Magistrate Judge are hereby **ADOPTED**. Consistent with the recommendation by the Magistrate Judge, Defendant Highland County Sheriff’s Department is **DISMISSED** from this proceeding with prejudice as an improper party. The claims by which Plaintiff seeks release from incarceration are **DISMISSED** with prejudice as non-cognizable. Only the Plaintiff’s Fourth Amendment excessive force claim against defendants Adams, Alexander, and Goens are to **PROCEED**. And all remaining claims

against all remaining defendants in their *individual capacities* are **DISMISSED** without prejudice.

The Court **CERTIFIES** that, pursuant to 28 U.S.C. § 1915(a)(3) and for the foregoing reasons, an appeal of this order would not be taken in good faith. Consequently, leave for Plaintiff to appeal in forma pauperis is **DENIED**.

IT IS SO ORDERED.

s/Michael R. Barrett
Michael R. Barrett, Judge
United States District Court